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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/249,489	02/12/1999	TETSUJIRO KONDO	80398.P198	9991

7590 09/05/2003

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EXAMINER

CHAUDRY, MUJTABA M

ART UNIT	PAPER NUMBER
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2133

22

DATE MAILED: 09/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/249,489	KONDO ET AL.	
	Examiner	Art Unit	
	Mujtaba K Chaudry	2133	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-76 and 78-96 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-76 and 78-96 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Prosecution Application

The request filed on July 11, 2003 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/249489 is acceptable and a CPA has been established. An action on the CPA follows.

Response to Amendment

Applicant's arguments/amendments with respect to amended claims 1, 4, 13-16, 19, 20, 28, 30, 39-42, 48, 50-52, 54-55, 61, 63, 64, 66, 68, 70-75, 80-84, 88-92 and 95-96, cancelled claim 77 and original claims 2-3, 5-12, 17-18, 21-27, 29, 31-38, 43-47, 49, 53, 56-60, 62, 65, 67, 69, 76, 78-79, 85-87 and 93-94 filed July 11, 2003 have been fully considered but are not persuasive.

Applicants contend, "Waibel does not teach or suggest any techniques for recovering errors in encoded image data." The Examiner disagrees. Claim 1 of the present application states in part, "...generating hypotheses for lost/damaged data within a **received bitstream** of encoded image data..." The Examiner would like to point out that data in a bitstream is still data whether image or speech data. Furthermore, the Examiner would like to point out that the preamble of the claim which states "a method for recovery of lost/damaged data comprising:" which is clearly taught by Waibel (See office action, paper No. 19).

Art Unit: 2133

Claim Rejections - 35 USC § 103

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-76 and 78-96 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waibel et al. (USPN 5712957). See paper No. 19.

The Examiner disagrees with the Applicant and maintains all rejections of amended claims 1, 4, 13-16, 19, 20, 28, 30, 39-42, 48, 50-52, 54-55, 61, 63, 64, 66, 68, 70-75, 80-84, 88-92 and 95-96 and original claims 2-3, 5-12, 17-18, 21-27, 29, 31-38, 43-47, 49, 53, 56-60, 62, 65, 67, 69, 76, 78-79, 85-87 and 93-94. All arguments have been considered. It is the Examiner's conclusion that amended claims 1, 4, 13-16, 19, 20, 28, 30, 39-42, 48, 50-52, 54-55, 61, 63, 64, 66, 68, 70-75, 80-84, 88-92 and 95-96, cancelled claim 77 and original claims 2-3, 5-12, 17-18, 21-27, 29, 31-38, 43-47, 49, 53, 56-60, 62, 65, 67, 69, 76, 78-79, 85-87 and 93-94 are not patentably distinct or non-obvious over the prior art of record (See paper No. 19).

Art Unit: 2133


Conclusion

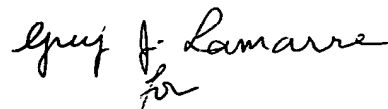
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is invited to review additional pertinent prior art that has been included herein.

Any inquiries concerning this communication should be directed to the examiner, Mujtaba Chaudry who may be reached at 703-305-7755. The examiner may normally be reached Mon – Thur 7:30 am to 4:30 pm and every other Fri 8:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, please contact the examiner's supervisor, Albert DeCady at 703-305-9595. The fax phone number for the organization where this application is assigned is 703-746-7239.

Any inquiry of general nature or relating to the status of this application or proceeding should be directed to the receptionist at 703-305-3900.


Mujtaba Chaudry
Art Unit 2133
August 26, 2003


Albert DeCady
Primary Examiner